
By: **Delegate Quinter**

Introduced and read first time: February 13, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Protective Parent Reform Act**

3 FOR the purpose of establishing that certain evidence is not admissible in a child
4 custody or visitation proceeding under certain circumstances; requiring the
5 court to appoint only a certain mental health professional to provide mental
6 health services in a certain custody or visitation proceeding; requiring counsel
7 appointed for a child in a certain custody or visitation proceeding to disclose
8 certain information and present certain evidence; requiring that each party and
9 counsel for the child receive a certain evaluation and report within a certain
10 time period, except under certain circumstances; and generally relating to child
11 custody and visitation.

12 BY adding to
13 Article - Family Law
14 Section 9-101.2
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Family Law
19 Section 9-304, 9-305, and 9-306
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Family Law**

25 9-101.2.

26 (A) (1) A FINDING RESULTING FROM AN INVESTIGATION CONDUCTED BY A
27 LAW ENFORCEMENT AGENCY OR A LOCAL DEPARTMENT OF SOCIAL SERVICES
28 UNDER TITLE 5, SUBTITLE 7 OF THIS ARTICLE IS NOT ADMISSIBLE IN A CUSTODY OR

1 VISITATION PROCEEDING IF THE ADMISSION OF THE FINDING IS OPPOSED BY A
2 PARTY, UNLESS THAT PARTY WAS PROVIDED WITH THE OPPORTUNITY TO APPEAL
3 THE FINDING UNDER § 5-706.1 OF THIS ARTICLE.

4 (2) EVIDENCE BY AN EXPERT IN A CUSTODY OR VISITATION
5 PROCEEDING THAT SEEKS TO DISCREDIT A PARTY FOR ASSERTING THAT THE
6 PARTY'S CHILD HAS BEEN ABUSED OR NEGLECTED BY ANOTHER PARTY IS NOT
7 ADMISSIBLE UNLESS THE EVIDENCE IS BASED ON CONCEPTS AND THEORIES
8 GENERALLY ACCEPTED BY THE SCIENTIFIC COMMUNITY AND SUPPORTED BY
9 ADMISSIBLE FACTS.

10 (3) EVIDENCE THAT A PARENT FILED A PETITION WITH THE COURT
11 UNDER § 9-306 OF THIS TITLE IS NOT ADMISSIBLE IN A CUSTODY OR VISITATION
12 PROCEEDING IF THE COURT MADE A FINDING ON THE PETITION THAT AT THE TIME
13 THE ACT WAS DONE, A FAILURE TO DO THE ACT WOULD HAVE RESULTED IN A CLEAR
14 AND PRESENT DANGER TO THE HEALTH, SAFETY, OR WELFARE OF THE CHILD.

15 (B) WHENEVER CHILD ABUSE OR NEGLECT IS AN ISSUE IN A CUSTODY OR
16 VISITATION PROCEEDING:

17 (1) THE COURT MAY APPOINT ONLY A QUALIFIED MENTAL HEALTH
18 PROFESSIONAL WHO POSSESSES SPECIALIZED TRAINING AND EXPERIENCE
19 RELEVANT TO CHILD ABUSE AND NEGLECT TO PROVIDE MENTAL HEALTH SERVICES,
20 INCLUDING CUSTODY EVALUATIONS; AND

21 (2) ANY COUNSEL APPOINTED TO REPRESENT A CHILD WHO IS
22 COMPETENT TO TESTIFY SHALL DISCLOSE THE PREFERENCES OF THE CHILD AND
23 PRESENT ANY EVIDENCE DISCLOSED BY THE CHILD RELEVANT TO THE
24 PREFERENCES OF THE CHILD.

25 (C) EXCEPT FOR EMERGENCY PROCEEDINGS OR PROCEEDINGS UNDER TITLE
26 4, SUBTITLE 5 OF THIS ARTICLE, EACH PARTY AND THE COUNSEL FOR THE CHILD
27 SHALL RECEIVE ANY COURT-APPOINTED CUSTODY EVALUATION AND MENTAL
28 HEALTH REPORT AT LEAST 15 DAYS BEFORE A HEARING ON CUSTODY OR
29 VISITATION.

30 9-304.

31 If a child is under the age of 16 years, a relative who knows that another person
32 is the lawful custodian of the child may not:

33 (1) abduct, take, or carry away the child from the lawful custodian to a
34 place within this State;

35 (2) having acquired lawful possession of the child, detain the child
36 within this State for more than 48 hours after the lawful custodian demands that the
37 child be returned;

38 (3) harbor or hide the child within this State, knowing that possession of
39 the child was obtained by another relative in violation of this section; or

1 (4) act as an accessory to an act prohibited by this section.

2 9-305.

3 (a) If a child is under the age of 16 years, a relative who knows that another
4 person is the lawful custodian of the child may not:

5 (1) abduct, take, or carry away the child from the lawful custodian to a
6 place in another state;

7 (2) having acquired lawful possession of the child, detain the child in
8 another state for more than 48 hours after the lawful custodian demands that the
9 child be returned;

10 (3) harbor or hide the child in another state knowing that possession of
11 the child was obtained by another relative in violation of this section; or

12 (4) act as an accessory to an act prohibited by this section.

13 (b) If a child is under the age of 16 years, a relative who knows that another
14 person is the lawful custodian of the child may not:

15 (1) abduct, take, or carry away the child from the lawful custodian to a
16 place that is outside of the United States or a territory of the United States or the
17 District of Columbia or the Commonwealth of Puerto Rico;

18 (2) having acquired lawful possession of the child, detain the child in a
19 place that is outside of the United States or a territory of the United States or the
20 District of Columbia or the Commonwealth of Puerto Rico for more than 48 hours
21 after the lawful custodian demands that the child be returned;

22 (3) harbor or hide the child in a place that is outside of the United States
23 or a territory of the United States or the District of Columbia or the Commonwealth
24 of Puerto Rico knowing that possession of the child was obtained by another relative
25 in violation of this section; or

26 (4) act as an accessory to an act prohibited by this section.

27 9-306.

28 (a) If an individual violates the provisions of § 9-304 or § 9-305 of this
29 subtitle, the individual may file in an equity court a petition that:

30 (1) states that, at the time the act was done, a failure to do the act would
31 have resulted in a clear and present danger to the health, safety, or welfare of the
32 child; and

33 (2) seeks to revise, amend, or clarify the custody order.

34 (b) If a petition is filed as provided in subsection (a) of this section within 96
35 hours of the act, a finding by the court that, at the time the act was done, a failure to

1 do the act would have resulted in a clear and present danger to the health, safety, or
2 welfare of the child is a complete defense to any action brought for a violation of §
3 9-304 or § 9-305 of this subtitle.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect October 1, 2004.